

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

|  |   |                           |
|--|---|---------------------------|
| <b>JAMES L. KOPECKY, RECEIVER</b>        | ) |                           |
| <b>FOR BRAD A. WEAVER AND</b>            | ) |                           |
| <b>BETA ASSET MANAGEMENT, INC.,</b>      | ) |                           |
|  | ) |                           |
| <b>Plaintiff,</b>                        | ) |                           |
|  | ) |                           |
| <b>v.</b>                                | ) | <b>Case No. 07 C 7156</b> |
|  | ) |                           |
| <b>THOMAS BANDYK, BANDYK</b>             | ) |                           |
| <b>&amp; ASSOCIATES, BANDYK &amp;</b>    | ) |                           |
| <b>&amp; ASSOCIATES, SOLE PROPRIETOR</b> | ) |                           |
|  | ) |                           |
| <b>Defendants.</b>                       | ) |                           |
|  | ) |                           |

**PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT**

The Receiver, James L. Kopecky, by counsel, requests that this Honorable Court enter a default judgment as to all Defendants pursuant to Rule 55 of the Federal Rules of Civil Procedure. In support thereof, plaintiff states as follows:

1. On or about December 20, 2007, Plaintiff filed a complaint against defendants Thomas Bandyk, Bandyk & Associates, and Bandyk & Associates as Sole Proprietor. See the complaint, attached as Exhibit A.
2. On May 5, 2008, Thomas Bandyk filed a Pro-Se appearance. (See the Appearance, attached as Exhibit B).
3. According to the Federal Rules of Civil Procedure, Thomas Bandyk's response to the complaint was due twenty days thereafter, on January 9, 2008.
4. While Thomas Bandyk has filed an appearance, he has not filed an Answer to the Complaint.

5. Pursuant to Federal Rule of Civil Procedure 55, this Court may enter a default judgment against the Bandyk Defendants for their failure to answer the Complaint.

6. In an affidavit, attached as Exhibit C, the Receiver submits the amount of damages due from Defendants as a result of their fraudulent conduct and their breach of fiduciary duties,

WHEREFORE, Plaintiff prays for entry of a judgment by default on its Complaint against the Bandyk Defendants, and for such other and further relief as the Court deems fair and just, and to set this matter for prove-up.

Respectfully submitted,

s/James L. Kopecky  
James L. Kopecky

James L. Kopecky, P.C.  
190 South LaSalle Street, Suite 850-A  
Chicago, Illinois 60603  
312-380-6552  
ARDC No. 6225359

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

JAMES L. KOPECKY, RECEIVER )  
FOR BRAD A. WEAVER AND )  
BETA ASSET MANAGEMENT, INC., )  
                               )  
                               )  
**Plaintiff,**                 )  
                               )  
                               )  
v.                             )      **Case No. 07 C 7156**  
                               )  
                               )  
**THOMAS BANDYK, BANDYK**     )  
**& ASSOCIATES, BANDYK &**     )  
**& ASSOCIATES, SOLE PROPRIETOR** )  
                               )  
                               )  
**Defendants.**                 )  
                               )

**AFFIDAVIT OF JAMES L. KOPECKY**

James L. Kopecky, being duly sworn under oath states as follows:

1. I am the Plaintiff, as Receiver, in the above-captioned matter. I am the attorney of record for Plaintiff as well. I have personal knowledge of the facts contained herein and if called to testify, would testify to and in accordance with those facts.

2. I was admitted to practice before the courts of the State of Illinois in November of 1994 and I am a member in good standing in those courts. I am experienced in handling matters involving securities fraud, breach of fiduciary duties, common law fraud, as well as commercial litigation and breach of contract disputes.

3. I filed the above-captioned matter on behalf of the Receivership on December 20, 2007. At the time of filing the complaint, I sought \$1,990,992.00 in damages from the Defendants, based upon my review of banking records and other financial documents for Beta Asset Management and Brad Weaver, as well as bank and financial records for the Defendants. The bank records for all individuals and entities began on or about January 1, 2003.

4. Since the filing of the complaint, I have obtained additional financial records from the Securities Exchange Commission for 2002, including bank records for Beta and the Defendants.

5. The additional bank records revealed that the Defendants received more from Beta than the \$1,990,992.00 in damages initially sought in the complaint. In fact, the Defendants received \$2,088,535.00 from Beta in excess of what they paid to Beta. Each of the Defendants' transactions with Beta are listed in Exhibit A to this Affidavit.

7. Thus, Plaintiff seeks \$2,088,535.00, in damages, plus costs, interest and attorneys' fees in connection with this matter.

FURTHER AFFIANT SAYETH NOT.

---

s/ James L. Kopecky  
James L. Kopecky

| Date Posted | Payor               | Amount       | Check No. / Wire / | Payee           |
|-------------|---------------------|--------------|--------------------|-----------------|
| 05/06/02    | Bandyk, Thomas      | \$ 18,500.00 | wire               | Beta Asset Mgmt |
| 05/07/02    | Bandyk & Associates | 6,500.00     | wire               | Beta Asset Mgmt |
| 06/25/02    | Bandyk, Thomas      | 28,000.00    | wire               | Beta Asset Mgmt |
| 06/26/02    | Bandyk, Thomas      | 5,000.00     | wire               | Beta Asset Mgmt |
| 07/05/02    | Bandyk, Thomas      | 5,000.00     | wire               | Beta Asset Mgmt |
| 07/05/02    | Bandyk, Thomas      | 20,025.00    | wire               | Beta Asset Mgmt |
| 07/29/02    | Bandyk, Thomas      | 14,500.00    | wire               | Beta Asset Mgmt |
| 09/11/02    | Bandyk, Thomas      | 21,300.00    | wire               | Beta Asset Mgmt |
| 09/17/02    | Bandyk, Thomas      | 20,000.00    | wire               | Beta Asset Mgmt |
| 09/19/02    | Bandyk, Thomas      | 100,000.00   | wire               | Beta Asset Mgmt |
| 01/16/03    | Bandyk, Tom         | 78,000.00    | wire               | Beta Asset Mgmt |
| 01/21/03    | Bandyk & Associates | 65,000.00    | wire               | Beta Asset Mgmt |
| 01/29/03    | Bandyk & Associates | 38,000.00    | wire               | Beta Asset Mgmt |
| 01/29/03    | Bandyk & Associates | 42,000.00    | wire               | Beta Asset Mgmt |
| 02/12/03    | Bandyk & Associates | 18,000.00    | wire               | Beta Asset Mgmt |
| 03/18/03    | Bandyk & Associates | 79,000.00    | wire               | Beta Asset Mgmt |
| 03/20/03    | Bandyk & Associates | 40,000.00    | wire               | Beta Asset Mgmt |
| 03/31/03    | Bandyk & Associates | 40,000.00    | wire               | Beta Asset Mgmt |
| 04/03/03    | Bandyk & Associates | 40,000.00    | wire               | Beta Asset Mgmt |
| 04/15/03    | Bandyk & Associates | 10,500.00    | wire               | Beta Asset Mgmt |
| 04/15/03    | Bandyk & Associates | 19,000.00    | wire               | Beta Asset Mgmt |
| 04/15/03    | Bandyk & Associates | 36,000.00    | wire               | Beta Asset Mgmt |
| 04/17/03    | Bandyk, Thomas      | 30,000.00    | wire               | Beta Asset Mgmt |
| 04/29/03    | Bandyk & Associates | 30,000.00    | wire               | Beta Asset Mgmt |
| 04/30/03    | Bandyk & Associates | 20,000.00    | wire               | Beta Asset Mgmt |
| 05/01/03    | Bandyk & Associates | 10,000.00    | wire               | Beta Asset Mgmt |
| 05/19/03    | Bandyk & Associates | 10,000.00    | wire               | Beta Asset Mgmt |
| 05/19/03    | Bandyk & Associates | 10,000.00    | wire               | Beta Asset Mgmt |
| 07/14/03    | Bandyk, Thomas      | 40,000.00    | wire               | Beta Asset Mgmt |
| 07/16/03    | Bandyk & Associates | 20,000.00    | wire               | Beta Asset Mgmt |
| 07/24/03    | Bandyk & Associates | 10,000.00    | wire               | Beta Asset Mgmt |
| 08/22/03    | Bandyk & Associates | 45,000.00    | wire               | Beta Asset Mgmt |
| 09/24/03    | Bandyk, Thomas      | 20,000.00    | wire               | Beta Asset Mgmt |
| 10/02/03    | Bandyk & Associates | 10,000.00    | wire               | Beta Asset Mgmt |
| 10/20/03    | Bandyk & Associates | 57,000.00    | wire               | Beta Asset Mgmt |
| 10/27/03    | Bandyk, Thomas      | 33,000.00    | wire               | Beta Asset Mgmt |
| 11/13/03    | Bandyk & Associates | 40,000.00    | wire               | Beta Asset Mgmt |
| 11/26/03    | Bandyk & Associates | 5,000.00     | wire               | Beta Asset Mgmt |
| 11/28/03    | Bandyk & Associates | 15,000.00    | wire               | Beta Asset Mgmt |
| 11/28/03    | Bandyk & Associates | 70,000.00    | wire               | Beta Asset Mgmt |
| 12/09/03    | Bandyk & Associates | 10,000.00    | wire               | Beta Asset Mgmt |
| 12/09/03    | Bandyk & Associates | 15,000.00    | wire               | Beta Asset Mgmt |
| 12/10/03    | Bandyk & Associates | 35,000.00    | wire               | Beta Asset Mgmt |
| 01/07/04    | Bandyk, Thomas      | 300,000.00   | wire               | Beta Asset Mgmt |
| 01/08/04    | Bandyk & Associates | 20,000.00    | wire               | Beta Asset Mgmt |
| 03/29/04    | Bandyk & Associates | 10,000.00    | wire               | Beta Asset Mgmt |
| 03/31/04    | Bandyk & Associates | 10,000.00    | wire               | Beta Asset Mgmt |

EXHIBIT

A

Tables

| Date Posted | Payor                | Amount          | Check No. / Wire / | Payee           |
|-------------|----------------------|-----------------|--------------------|-----------------|
| 03/31/04    | Bandyk & Associates  | 40,000.00       | wire               | Beta Asset Mgmt |
| 04/06/04    | Bandyk & Associates  | 25,000.00       | wire               | Beta Asset Mgmt |
| 04/06/04    | Bandyk & Associates  | 70,000.00       | wire               | Beta Asset Mgmt |
| 04/07/04    | Bandyk & Associates  | 50,000.00       | wire               | Beta Asset Mgmt |
| 04/08/04    | Bandyk & Associates  | 10,000.00       | wire               | Beta Asset Mgmt |
| 04/09/04    | Bandyk & Associates  | 20,000.00       | wire               | Beta Asset Mgmt |
| 04/13/04    | Bandyk & Associates  | 20,000.00       | wire               | Beta Asset Mgmt |
| 04/15/04    | Bandyk & Associates  | 20,000.00       | wire               | Beta Asset Mgmt |
| 04/16/04    | Bandyk & Associates  | 50,000.00       | wire               | Beta Asset Mgmt |
| 04/30/04    | Bandyk & Associates  | 10,000.00       | 3099               | Beta Asset Mgmt |
| 04/30/04    | Bandyk & Associates  | 10,000.00       | 3110               | Beta Asset Mgmt |
| 05/10/04    | Bandyk & Associates  | 10,000.00       | wire               | Beta Asset Mgmt |
| 05/11/04    | Bandyk & Associates  | 50,000.00       | wire               | Beta Asset Mgmt |
| 05/13/04    | Bandyk & Associates  | 100,000.00      | wire               | Beta Asset Mgmt |
| 05/14/04    | Bandyk & Associates  | 28,000.00       | wire               | Beta Asset Mgmt |
| 06/03/04    | Bandyk & Associates  | 10,000.00       | wire               | Beta Asset Mgmt |
| 06/03/04    | Bandyk & Associates  | 10,000.00       | wire               | Beta Asset Mgmt |
| 06/07/04    | Bandyk & Associates  | 20,000.00       | wire               | Beta Asset Mgmt |
| 06/07/04    | Bandyk & Associates  | 25,000.00       | wire               | Beta Asset Mgmt |
| 06/14/04    | Bandyk & Associates  | 30,000.00       | wire               | Beta Asset Mgmt |
| 06/14/04    | Bandyk & Associates  | 50,000.00       | wire               | Beta Asset Mgmt |
| 06/14/04    | Bandyk & Associates  | 100,000.00      | wire               | Beta Asset Mgmt |
| 07/01/04    | Bandyk & Associates  | 20,000.00       | wire               | Beta Asset Mgmt |
| 07/01/04    | Bandyk & Associates  | 40,000.00       | wire               | Beta Asset Mgmt |
| 08/13/04    | Bandyk, Thomas Frank | 48,000.00       | wire               | Beta Asset Mgmt |
| 08/13/04    | Bandyk & Associates  | 50,000.00       | wire               | Beta Asset Mgmt |
| 08/16/04    | Bandyk & Associates  | 50.00           | wire               | Beta Asset Mgmt |
| 08/18/04    | Bandyk, Thomas Frank | 2,000.00        | wire               | Beta Asset Mgmt |
| 09/28/04    | Bandyk & Associates  | 35,000.00       | wire               | Beta Asset Mgmt |
|             |                      | \$ 2,572,375.00 |                    |                 |
|             |                      | \$ 4,660,910.00 |                    |                 |
|             |                      | \$ 2,572,375.00 |                    |                 |
|             |                      | \$ 2,088,535.00 |                    |                 |

| Date Posted | Payor           | Amount       | Check No. / Wire / | Payee               |
|-------------|-----------------|--------------|--------------------|---------------------|
| 05/29/02    | Beta Asset Mgmt | \$ 27,900.00 | 2021               | Bandyk, Thomas      |
| 09/30/02    | Beta Asset Mgmt | 6,000.00     | wire               | Bandyk, Thomas      |
| 12/17/02    | Beta Asset Mgmt | 52,500.00    | 2339               | Bandyk, Thomas      |
| 12/27/02    | Beta Asset Mgmt | 87,500.00    | 2340               | Bandyk, Thomas      |
| 01/14/03    | Beta Asset Mgmt | 20,000.00    | 1004               | Bandyk, Thomas      |
| 02/21/03    | Beta Asset Mgmt | 13,800.00    | 1020               | Bandyk, Thomas      |
| 03/04/03    | Beta Asset Mgmt | 7,000.00     | 1024               | Bandyk, Thomas      |
| 03/10/03    | Beta Asset Mgmt | 2,000.00     | 1025               | Bandyk, Thomas      |
| 03/20/03    | Beta Asset Mgmt | 20,750.00    | wire               | Bandyk & Associates |
| 03/21/03    | Beta Asset Mgmt | 168,300.00   | wire               | Bandyk & Associates |
| 03/25/03    | Beta Asset Mgmt | 53,000.00    | wire               | Bandyk & Associates |
| 05/14/03    | Beta Asset Mgmt | 62,040.00    | wire               | Bandyk & Associates |
| 06/20/03    | Beta Asset Mgmt | 50,000.00    | wire               | Bandyk              |
| 06/20/03    | Beta Asset Mgmt | 100,000.00   | wire               | Bandyk              |
| 06/24/03    | Beta Asset Mgmt | 42,000.00    | wire               | Bandyk & Associates |
| 07/03/03    | Beta Asset Mgmt | 20,000.00    | wire               | Bandyk & Associates |
| 08/13/03    | Beta Asset Mgmt | 60,000.00    | wire               | Bandyk & Associates |
| 08/15/03    | Beta Asset Mgmt | 24,000.00    | wire               | Bandyk & Associates |
| 08/18/03    | Beta Asset Mgmt | 9,000.00     | wire               | Bandyk & Associates |
| 09/18/03    | Beta Asset Mgmt | 35,000.00    | wire               | Bandyk & Associates |
| 09/22/03    | Beta Asset Mgmt | 57,920.00    | wire               | Bandyk & Associates |
| 12/18/03    | Beta Asset Mgmt | 30,000.00    | wire               | Bandyk & Associates |
| 12/31/03    | Beta Asset Mgmt | 100,000.00   | wire               | Bandyk & Associates |
| 12/31/03    | Beta Asset Mgmt | 429,000.00   | wire               | Bandyk & Associates |
| 02/06/04    | Beta Asset Mgmt | 62,200.00    | wire               | Bandyk & Associates |
| 02/06/04    | Beta Asset Mgmt | 100,000.00   | wire               | Bandyk & Associates |
| 02/17/04    | Beta Asset Mgmt | 150,000.00   | 1119               | Bandyk, Thomas      |
| 02/19/04    | Beta Asset Mgmt | 135,000.00   | 1120               | Bandyk, Thomas      |
| 03/05/04    | Beta Asset Mgmt | 20,000.00    | wire               | Bandyk & Associates |
| 03/26/04    | Beta Asset Mgmt | 90,000.00    | wire               | Bandyk & Associates |
| 04/02/04    | Beta Asset Mgmt | 105,000.00   | wire               | Bandyk & Associates |
| 05/07/04    | Beta Asset Mgmt | 40,000.00    | wire               | Bandyk & Associates |
| 05/18/04    | Beta Asset Mgmt | 50,000.00    | wire               | Bandyk & Associates |
| 05/21/04    | Beta Asset Mgmt | 38,000.00    | wire               | Bandyk & Associates |
| 05/26/04    | Beta Asset Mgmt | 200,000.00   | wire               | Bandyk & Associates |
| 06/02/04    | Beta Asset Mgmt | 100,000.00   | wire               | Bandyk & Associates |
| 06/03/04    | Beta Asset Mgmt | 135,000.00   | wire               | Bandyk & Associates |
| 06/07/04    | Beta Asset Mgmt | 105,000.00   | wire               | Bandyk & Associates |
| 06/29/04    | Beta Asset Mgmt | 400,000.00   | wire               | Bandyk & Associates |
| 07/29/04    | Beta Asset Mgmt | 63,000.00    | wire               | Bandyk & Associates |
| 08/12/04    | Beta Asset Mgmt | 250,000.00   | wire               | Bandyk & Associates |
| 09/13/04    | Beta Asset Mgmt | 119,000.00   | wire               | Bandyk & Associates |
| 09/16/04    | Beta Asset Mgmt | 105,000.00   | wire               | Bandyk & Associates |
| 09/16/04    | Beta Asset Mgmt | 410,000.00   | wire               | Bandyk & Associates |
| 09/17/04    | Beta Asset Mgmt | 36,000.00    | wire               | Bandyk & Associates |
| 10/15/04    | Beta Asset Mgmt | 70,000.00    | wire               | Bandyk & Associates |

| Date Posted     | Payor           | Amount            | Check No. / Wire / | Payee                 |
|-----------------|-----------------|-------------------|--------------------|-----------------------|
| 11/04/04        | Beta Asset Mgmt | 10,000.00         | wire               | Bandyk & Associates   |
| 11/12/04        | Beta Asset Mgmt | <u>390,000.00</u> | wire               | Bandyk and Associates |
| \$ 4,660,910.00 |                 |                   |                    |                       |